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CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
TOLEDO

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

**ORIGINAL**

FARM LABOR ORGANIZING COMMITTEE, )  
MERCED VALDEZ, FRANCISCO QUINTERO, )  
ALICIA QUINTERO, MARGARITO OLIVARES, )  
GUADALUPE ARIOLA, EUSEBIO ARIOLA, JR, )  
MELISSA LOPEZ, FERNANDO CUEVAS, SR., )  
and FERNANDO CUEVAS, JR., individually, and )  
on behalf of all people similarly situated; )

Plaintiffs, )

v. )

THE OHIO STATE HIGHWAY PATROL; )  
COLONEL WARREN H. DAVIES, individually, )  
and in his official capacity as Superintendent )  
of the Ohio State Highway Patrol; SERGEANT )  
BRUCE ELLING, individually, and in his official )  
capacity as Supervisor, Quad A Traffic Drug )  
Interdiction Team; LIEUTENANT BERRY )  
ELDERS individually and in his official capacity )  
as Swanton Post Commander of the Ohio State )  
Highway Patrol, TROOPERS KEVIN KIEFER, )  
STEVEN R. BLUE, REBECCA AMBROSE, )  
and other unknown officers of the Ohio State )  
Highway Patrol, in their individual capacities, )

Defendants. )

**3:96CV7580**

No.

Judge **JUDGE JAMES G. CARR**

**COMPLAINT:  
CLASS ACTION**

**JURY DEMAND**

## **INTRODUCTION**

1. This is a civil rights class action in three Counts. The suit challenges the practice of the Ohio State Highway Patrol of making automobile stops, detentions and searches, with or without lawful grounds to stop, detain and search, based on race and/or national origin.

2. Count I is brought pursuant to 42 U.S.C. §§ 1983, 1988 and 28 U.S.C. § 2201 et seq. for violations of the First and the Fourth Amendments to the United States Constitution and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution. In Count I, plaintiffs seek declaratory and injunctive relief and money damages for themselves and for the plaintiff class.

3. Count II is brought pursuant to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., as amended, and 28 CFR § 32.101 et seq., the administrative regulations of the United States Department of Justice effectuating Title VI. In this Count, plaintiffs seek declaratory and injunctive relief and money damages for themselves and for the plaintiff class.

4. In Count III, plaintiffs invoke the supplemental jurisdiction of this Court pursuant to 28 U.S.C. § 1376, and raise claims under state constitutional and common law. In Count III, plaintiffs seek money damages for themselves and for the plaintiff class.

## **JURISDICTION AND VENUE**

5. The jurisdiction of the Court in Counts I and II is founded on 28 U.S.C. §§ 1331 and 1343 (a) (3) & (4) and 42 U.S.C. § 2000d-1. Jurisdiction in Count III is based on this Court's supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

6. Venue is proper in this Court, pursuant to 28 U.S.C. § 1391 (b) (2), because defendant the Ohio State Highway Patrol maintains an office, and defendant Davies resides, in this district.

## **PARTIES**

7. Plaintiff Farm Labor Organizing Committee (FLOC) is a Union of migrant and seasonal farm workers. It is based in Toledo, Ohio, and has approximately 15,000 members nationwide. During the harvest season, FLOC has approximately eight thousand members traveling and residing in Ohio. These members are predominately Hispanic, and virtually all of them will drive in Ohio or travel in vehicles driven on Ohio's highways by Hispanic drivers. FLOC's members are currently traveling through or residing in Ohio, and will return year after year. In addition, many of FLOC's members work and reside in Michigan, and travel from Florida and other points South through Ohio en route to their employment. FLOC conducts much of its business on the highways of Ohio, and its organizers have been victims of defendants' actions. Plaintiffs Fernando Cuevas Sr. and Fernando Cuevas Jr. are members of, as well as employees of, FLOC. Plaintiff Merced Valdez and several other plaintiffs are members of FLOC.

8. Plaintiff Merced Valdez is a resident of Ohio. He is Hispanic, and is a United States citizen. He is a member of FLOC.

9. Plaintiff Fernando Cuevas Sr. is Hispanic, and is a United States citizen. Each year, he resides part of the year in Ohio and part of the year in Florida. He is the First Vice President of FLOC.

10. Plaintiff Fernando Cuevas Jr. is Hispanic, and is a United States citizen. Each year, he resides part of the year in Ohio and part of the year in Florida. He is a field organizer for FLOC.

11. Plaintiff Alicia Quintero was recently employed with Migrant Head Start in Ohio. She is Hispanic, and a citizen of the United States. She resides in Ohio and travels frequently to Texas.

12. Plaintiff Francisco Quintero is Hispanic, and a citizen of the United States. He resides in Ohio, and travels frequently to Texas.

13. Plaintiffs Guadalupe and Eusebio Ariola are farm workers who spend part of each year in Ohio. They plan to return to Ohio each year in the future. They are both Hispanic citizens or lawfully admitted aliens.

14. Plaintiff Melissa Lopez is a citizen of the United States. She is Hispanic, and resides part of each year in Ohio. She plans to return to Ohio each year in the future.

15. Plaintiff Margarito Olivares is a migrant farm worker from Florida. He is a lawfully admitted permanent resident alien of the United States. He plans to return to Ohio in the future to work and reside. He is Hispanic.

16. Defendant Ohio State Highway Patrol ("Highway Patrol" or "O.H.P.") is a state law-enforcement agency. Pursuant to O.R.C. § 5503.01 et seq., the O.H.P. is empowered to enforce the laws of the State of Ohio. The O.H.P. is a recipient of federal funds. The O.H.P. is a defendant in Count II only, pursuant to 42 U.S.C. § 2000d-7.

17. Defendant Colonel Warren Davies ("Davies") is the Superintendent of the O.H.P., defendant Davies is sued in his individual capacity for money damages and in his official capacity for purposes of injunctive relief. Defendant Davies is authorized to make policy for the defendant O.H.P.

18. Defendant Bruce Elling is a Sergeant with the Ohio State Highway Patrol and a quadrant supervisor of the "Traffic Drug Interdiction Team," a program of the O.H.P. that focuses on stops and searches of drivers and vehicles on the streets and highways of the Northwest part of Ohio. He is authorized to make policy for those defendants involved in the Traffic Drug Interdiction Team. He is sued in his individual capacity for money damages and in his capacity as supervisor for purposes of injunctive relief

19. Defendant Berry Elders is the head of the Swanton Highway Patrol Post located along the Ohio Turnpike between Exits 3 and 3A south of Toledo. He is sued in his individual capacity for money damages and in his official capacity as Post Commander for purposes of injunctive relief.

20. Defendants Kevin Kiefer, Rebecca Ambrose, and Steven R. Blue are troopers of the Ohio State Highway Patrol. Plaintiffs also sue other, unknown officers of

the Highway Patrol who effectuated the stops, detentions and searches of the named plaintiffs, as well as unknown officers of the Highway Patrol who have effectuated the stops, detentions and searches of other class members. All such officers are sued in their individual capacities only.

21. At all times pertinent hereto, all defendants were acting under color of state law and their conduct constituted state action.

### **CLASS ALLEGATIONS**

22. Plaintiffs bring this Complaint as a class action under Rule 23 of the Federal Rules of Civil Procedure. Plaintiffs seek to represent, pursuant to Rules 23 (b) (2) and 23 (b) (3), a class of all persons traveling on the streets and highways of Ohio, who, because of their national origin and/or race, in the past have been, or in the future will be, stopped, detained, searched, with or without legally sufficient cause and justification, and/or harassed.

23. All of the prerequisites to a class action as stated in Rule 23 (a) are satisfied by the class.

a. Numerous individuals have been stopped, detained and also often searched by defendants pursuant to defendants' unlawful practices, and numerous individuals will be in the future. Therefore, the class is so numerous that joinder of all members is impracticable.

b. There are questions of law and fact common to the plaintiff class. The common questions include whether the defendants' practices described below of stopping, detaining and also often searching persons

on the basis of national origin and/or race with or without legally sufficient cause and justification unconstitutionally burdens the First, Fourth and Fourteenth Amendment rights of those so stopped, detained and searched, their constitutional right to freedom of movement and the corresponding state constitutional guarantees.

c. The claims of the named plaintiffs are typical of the claims of the class: the named plaintiffs were stopped, detained and also searched pursuant to the practices challenged here, as were members of the class.

d. The named plaintiffs will fairly and adequately represent the interests of the class: they have no interests antagonistic to the class; they seek declaratory and injunctive relief and money damages on behalf of the entire class and such relief will benefit all members of the class; and they are represented by counsel who are competent and experienced in civil rights and class action litigation.

24. The class satisfies Rule 23 (b) (2) because the defendants have engaged in a course of conduct common to all members of the class, and final declaratory and injunctive relief in favor of the plaintiff class is therefore appropriate. In addition, the class satisfies Rule 23 (b) (3) because the questions of law and fact common to members of the class predominate over any questions affecting individual members and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

## **FACTUAL ALLEGATIONS**

### **Defendants' First Unlawful Practice**

25. It is the practice of the Highway Patrol and its officers to stop, detain and also often search individuals traveling on streets and highways in Ohio because of the travelers' race and/or national origin, with or without legally sufficient cause and justification ("the first practice"). Each of the named plaintiffs have been victims of the first practice.

26. The first practice is widespread and systemic. For example, defendant Trooper Rebecca Ambrose admitted under oath: "There are what you could call a profile stop and I, I mean if you saw a Hispanic person, possibly Hispanic, or a Mexican or whoever by themselves [sic], that would be a profile, if you're facing, if you're making a stop just on, just on what you saw".

### **Defendants' Second Unlawful Practice**

27. At times, when defendants engage in the first practice, they also question some or all of the occupants of vehicles as to their immigration status, including demands to see immigration documents ("the second practice"). This is a routine practice. Defendants have admitted identifying "large numbers of illegal aliens" during "routine traffic stops".

### **Defendants' Third Unlawful Practice**

28. At times, when defendants engage in the first and second practices, defendants confiscate class members' immigration documents, including lawfully issued certificates of alien registration or alien registration receipt cards ("the third practice").

Defendants keep these lawfully issued certificates of alien registration or alien registration receipt cards for long periods of time. Defendants' third practice subjects aliens to federal criminal prosecution for failure to possess their lawfully issued certificates of alien registration or alien registration receipt cards. In addition, defendants are committing a federal criminal act by causing these persons to be without their lawfully issued certificates of alien registration or alien registration receipt cards.

29. Defendant Trooper Kevin Kiefer told several witnesses that an individual named Coutcher, whom plaintiffs believe is a federal law-enforcement agent with an office at the Toledo Airport, has traveled around the State of Ohio training O.H.P. troopers to confiscate aliens' immigration documents, and bring them to Coutcher, who checks the documents through a computer system. Kiefer said that it is his practice to collect immigration documents from alien travelers from Saturday through Thursday, and deliver the confiscated documents on Fridays to agent Coutcher.

30. Defendants' practices as described above are widespread. Individuals are stopped, detained and also often searched pursuant to the three practices in all areas of the State of Ohio on a persistent, recurrent basis.

#### **The Stop, Detention and Search of Plaintiff Merced Valdez**

31. Approximately six months ago, an unknown Highway Patrol officer who was behind Plaintiff Merced Valdez's car turned on his flashing lights, signaling Mr. Merced Valdez to pull over. Mr Merced Valdez pulled the car over to the right shoulder.

32. The officer approached the car and asked for Mr. Merced Valdez's license. After Mr. Merced Valdez provided his license, the trooper demanded to see his immigration papers. Mr. Merced Valdez is a United States citizen and as a result possesses no immigration papers.

33. When Mr. Merced Valdez questioned the trooper's request for immigration papers, the trooper gruffly ordered Mr. Valdez out of the car, and ordered him to raise his hands and face away from his car. Upon information and belief, the trooper then searched Mr. Valdez' car. Mr. Valdez never consented in any way to the trooper's actions.

34. Eventually, the trooper instructed Mr. Merced Valdez that he was free to go. No ticket or citation of any sort was issued.

#### **The Stop, Detention and Search of Plaintiff Margarito Olivares**

35. Plaintiff Margarito Olivares is a migrant farm worker who resides in farm labor camps in Ohio during part of the year. During August, 1996, he was walking along a state route near Fremont, Ohio, returning to his farm labor camp from a nearby grocery store. A Highway Patrol trooper stopped him, and demanded to search his grocery bag. The trooper also demanded to see his identification, and carefully examined Mr. Olivares' lawfully issued alien registration receipt card. The trooper then ordered Mr. Olivares to return directly to his farm labor camp, without making any detours. The trooper never explained to Mr. Olivares why he was detained and searched.

**The Stop, Detention and Search of Plaintiff Melissa Lopez**

36. Plaintiff Melissa Lopez is a farm worker near Fremont, Ohio. In August, 1996, she, her mother, and her daughter were driving her car en route to a migrant farm labor camp near Fremont. A Highway Patrol trooper drove out from a corn field and stopped Ms. Lopez next to the farm labor camp. The trooper asked Ms. Lopez several questions of a personal nature while peering into the interior of Ms. Lopez's car. None of the Lopezes were given any ticket or citation of any sort. Throughout the summer of 1996, members of the Highway Patrol have routinely parked next to this farm labor camp, and watched the camp and its occupants from their cars. The camp is on an isolated back road in Sandusky County, with very little traffic.

**The Stop, Detention and Search of Plaintiffs Guadalupe and Eusebio Ariola**

37. Guadalupe and Eusebio Ariola are migrant farm workers who live part of the year in Texas and part of the year in migrant farm labor housing near Fremont, Ohio. In June of 1996, Eusebio was driving the family in a van on the turnpike between Fremont and Toledo, Ohio. It was approximately 2:30 in the afternoon. They were stopped by two troopers of the Highway Patrol. Almost immediately a sport utility vehicle arrived with a drug-sniffing dog. The trooper asked the Ariolas to sign a consent to search form. When the Ariolas asked why the troopers wanted to search the van, the trooper said that "it was procedure". Reasonably believing that they could not refuse, Eusebio signed. The van was thoroughly searched for an extended period of time. After finding no contraband of any sort, the troopers searched Guadalupe Ariola's

purse and wallet, looking through each of her cards. The Ariolas were given no ticket or written citation of any sort.

**The First Stop, Detention and Search of Plaintiff Fernando Cuevas, Jr.**

38. Plaintiff Fernando Cuevas, Jr. is an organizer for the Farm Labor Organizing Committee (FLOC). He is a citizen of the United States. During the summer in 1993, he was driving on FLOC business. He was pulled over on Interstate 280 by five Highway Patrol officers. One of the officers demanded to see his license and vehicle registration. Mr. Cuevas, Jr. was told that he was being held "on suspicion". The officers demanded to search Mr. Cuevas' pick-up truck. Reasonably believing that he was not allowed to refuse, Mr. Cuevas permitted his vehicle to be searched.

39. Highway Patrol officers detained Plaintiff Fernando Cuevas, Jr. for approximately two and one-half hours, while the officers searched his truck. Absolutely no contraband was found. Mr. Cuevas was released and was given no warning ticket nor citation of any type. He missed his Union farm labor camp meeting.

**The Second Stop, Detention and Search of Plaintiff Fernandez Cuevas, Jr.**

40. Later during the summer of 1993 while again conducting FLOC business, Mr. Cuevas Jr. was driving on State Route 20 just outside of Woodville, Ohio. A Highway Patrol officer ordered him to pull over. The officer demanded that he turn over his license and registration. The officer repeatedly questioned Mr. Cuevas concerning use of funds from an Ohio bank to purchase a truck registered in Florida. After

approximately one-half hour, Mr. Cuevas was released. He was not issued a warning ticket or citation of any sort.

**The Third Stop, Detention and Search of Plaintiff Fernandez Cuevas, Jr.**

41. During September, 1995, Plaintiff Fernando Cuevas, Jr. was driving on the Ohio Turnpike just west of the Toledo Airport. It was approximately noon, and he was driving a car registered to the Farm Labor Research Project (FLRP). He was accompanied by his father, Plaintiff Fernando Cuevas, Sr., who is the first vice-president of FLOC. They were driving from one Union camp meeting to another.

42. Plaintiff Fernando Cuevas, Jr. had the cruise control set at the speed limit. They passed a Highway Patrol trooper parked at the side of the turnpike. The trooper began to follow them. Approximately two miles ahead, they saw three more Highway Patrol cruisers parked on the side of the turnpike. One of those troopers signaled the Cuevas' to stop, which they did.

43. Once stopped, both of the Cuevas' were ordered to produce their drivers' licenses and car registration. After each complied, each was separately questioned at length by the troopers about who they were visiting, what they were doing, who they had talked with, and what their plans were. All four of the O.H.P. cruisers stayed at the scene. In the course of questioning, one of the troopers learned that the car was registered to FLRP. Eventually, the Cuevases were released. The Highway Patrol officers did not issue a ticket, warning or citation of any sort.

### **The First Stop, Detention and Search of Plaintiffs Francisco and Alicia Quintero**

44. In 1991, Plaintiffs Francisco and Alicia Quintero and their four children were driving on the Ohio Turnpike west of Toledo en route to visit their seriously ill mother in Texas, when they were detained by three O.H.P. cruisers and one undercover car carrying a drug sniffing dog. The Quintero's car and possessions were searched for over one hour. No contraband was found. They were not given a ticket or citation of any sort.

### **The Second Stop, Detention and Search of Francisco and Alicia Quintero**

45. On or about March, 1996, Plaintiffs Francisco and Alicia Quintero were driving in Northwestern Ohio when they were stopped by an unmarked O.H.P. car. Francisco and their four children were ordered out of the car, and their car and the families' possessions were searched for approximately forty minutes. They were not asked to produce their drivers' licenses, registration or any form of identification. They were issued no warning, ticket nor citation of any sort.

### **Other Instances of Defendants' Unlawful Practices**

46. Both prior and subsequent to the named plaintiffs being stopped, detained and searched by Highway Patrol troopers based on national origin and/or race with or without legally sufficient cause and justification, numerous other Hispanics and persons of color have been subjected to defendants' persistently applied practices, in many instances, multiple times. Among these applications of defendants' practices are the following:

**The Stop, Detention and Search of Jose Aguilar and Irma Esparza**

47. Mr. Jose Aguilar and Ms. Irma Esparza are lawfully admitted permanent resident aliens. Approximately one year ago, they were driving their van from Chicago, Illinois, to Toledo, Ohio. It was approximately 1:30 pm on a Sunday, it was raining, and they had turned on their head-lights.

48. Their van was stopped by four Highway Patrol vehicles and several officers. One of the vehicles had a drug sniffing dog. The officers issued Mr. Aguilar a warning citation for an improper headlight. One officer used the drug sniffing dog to search Mr. Aguilar's car, while other officers partially dismantled the car, searched through the car seats, opened a locked trunk and searched through the couple's suitcases and other personal possessions. Mr. Aguilar and Ms. Esparza, who speak virtually no English, were powerless to stop the violation of their rights. They did not consent to the search.

49. When the officers found no contraband, they seized Mr. Aguilar's and Ms. Esparza's lawfully issued certificates of alien registration or alien registration receipt cards and left the location. The Highway Patrol officers gave no reason for confiscating the certificates of alien registration or alien registration receipt cards, did not inform Mr. Aguilar or Ms. Esparza where the cards were being taken, whether their cards would be returned to them or whom to contact to learn any information relating to their cards. There is no lawful explanation for the search and seizure by the Highway Patrol officers of lawfully issued certificates of alien registration or alien registration receipt cards to lawfully residing Permanent Resident Aliens Aguilar and Esparza.

50. At no time did Mr. Aguilar or Ms. Esparza consent to the stop, detention or search. At all times, Mr. Aguilar made clear his refusal to consent to the continuing detention and the search and his wish to continue on his way.

**The Stop of Cynthia Ruiz**

51. Cynthia Ruiz resides in Texas and is employed as a county prosecutor. She is Hispanic. During the summer of 1994, while she was employed as a summer law clerk for Advocates for Basic Legal Equality, Inc. (ABLE), in Fremont, Ohio, she was stopped on the Ohio Turnpike by a Highway Patrol trooper. He asked her several personal questions, and then said that the car smelled like marijuana and asked her if she had been smoking marijuana that morning. She had not. The trooper then asked to search her car. She refused. The trooper continued to attempt to intimidate her. She finally demanded to be ticketed or released. The trooper finally released her. She was issued no warning, ticket or citation of any sort.

**The Stop, Detention and Search of Ruben Valdez**

52. Ruben Valdez is a resident of Ohio. He is Hispanic, and is a United States citizen. While driving home in Defiance, Ohio in 1996, Ruben Valdez was detained at gun-point by several police officers. An unknown Highway Patrol trooper was present during the stop and search of Ruben Valdez's car. At no time did Mr. Ruben Valdez consent to the stop, detention or search of the car. No drugs, guns, contraband or evidence of illegal activity was found. Mr. Ruben Valdez was not given a ticket, warning or citation of any sort.

### **General Allegations Concerning Defendants' Conduct**

53. Each Plaintiff's auto was stopped without reasonable suspicion of unlawful activity. No plaintiff was engaged in any illegal activity. Each plaintiff was detained at the roadside without reasonable suspicion of unlawful activity and the length of each plaintiff's detention exceeded a reasonable amount of time for an investigative stop, even if such stop had been lawful. Each plaintiff's car and possessions were searched without probable cause.

54. The complained of conduct by each defendant was motivated by plaintiffs' national origin and/or race.

55. The stop, detention and search of plaintiffs was pursuant to the three practices stated above.

56. Defendants Davies, Elling, and Elders either authorized or knowingly acquiesced in the unconstitutional actions of their subordinates, and they were deliberately indifferent to constitutional violations likely to result from serious deficiencies in the training program of Highway Patrol officers concerning stopping of vehicles on a prohibited basis.

57. Each defendant and the other unknown officers acted knowingly and intentionally. Moreover, their actions were taken with recklessness or callous disregard for plaintiffs' rights.

58. The actions of defendants in unlawfully stopping and detaining plaintiffs and searching their cars, persons and possessions have had a disproportionate effect on Hispanics and other persons of color have penalized plaintiffs for the exercise of

their constitutional right to freedom of movement in the State of Ohio and have hindered plaintiffs' exercise of that right.

**Injury To Plaintiffs**

59. As a direct and proximate result of defendants' conduct as stated herein, plaintiffs and the class they seek to represent have suffered humiliation, embarrassment, mental fright and emotional distress. In addition, defendants' conduct has hindered plaintiffs and the class they seek to represent in freely traveling the streets and highways in the State of Ohio. Defendants' actions have had a discriminatory impact against plaintiffs and class members.

**Necessity for Injunctive Relief**

60. Each plaintiff presently either resides in Ohio or has family, friends or business interests in Ohio and thus expects to travel Ohio's highways in the future. They wish to be free to travel to and in Ohio and on highways in Ohio without being stopped, detained and searched pursuant to the defendants' unlawful practices. Plaintiff FLOC is hindered in its mission and in its operation by defendants' actions.

61. Plaintiffs and the class they seek to represent are threatened with substantial, immediate and irreparable injury at the hands of the defendants. Defendants began their practices of stopping, detaining and also often searching Hispanic persons traveling on highways in Ohio based on national origin and/or race before the incidents involving the named plaintiffs, and defendants continue to engage in the practices against the numerous members of the class. Individual Highway Patrol troopers are authorized by the Highway Patrol to engage in the conduct to which the

named plaintiffs and numerous other Hispanics and persons of color have been subjected. Plaintiffs will also continue in the future to suffer the ongoing effects of defendants' past applications of the practice to them.

62. Unless restrained by this Court, defendants will continue their unlawful practices. Pursuant to these practices, plaintiffs are likely in the future to be stopped, detained and searched by defendants based on national origin and/or race with or without legally sufficient cause and justification. Plaintiffs continue to, and will in the future, travel on streets and highways in Ohio patrolled by the Highway Patrol. Plaintiffs will continue to be unable, even by fully conforming their conduct to all legal requirements, to avoid being stopped, detained and also often searched by defendants pursuant to defendants' unlawful practices.

63. Plaintiffs have suffered irreparable injury and, in the absence of injunctive relief, will continue to suffer irreparable injury. They have no adequate remedy at law.

**Jury Demand**

64. Plaintiffs demand trial by jury.

**CLAIMS FOR RELIEF**

**COUNT I**

**(Interference with Freedom of Association)**

65. Defendants' actions in maintaining the practices and in stopping plaintiffs' automobiles and detaining plaintiffs pursuant to these practices have deprived plaintiffs and the class they seek to represent of their right to freedom of association as guaranteed by the First Amendment to the United States Constitution.

**(Unlawful Detention)**

66. Defendants' actions in maintaining the practices and in stopping plaintiffs' automobiles and detaining plaintiffs pursuant to the practices have deprived plaintiffs and the class they seek to represent of their right to be free from unreasonable seizures as guaranteed by the Fourth Amendment to the United States Constitution.

**(Unlawful Search)**

67. Defendants' actions in maintaining the practices and in searching plaintiffs, their vehicles and their possessions pursuant to the practices have deprived plaintiffs and the class they seek to represent of their right to be free from unreasonable searches as guaranteed by the Fourth Amendment to the United States Constitution.

**(Denial of Equal Protection)**

68. The defendants' actions in maintaining the practices and in stopping, detaining and searching plaintiffs, their vehicles and their possessions pursuant to the practices have been motivated by discriminatory animus and constitute denial of equal protection of the laws based on plaintiffs' national origin and/or race in violation of the Fourteenth Amendment to the United States Constitution.

**(Violation of Right to Travel)**

69. The defendants' actions in maintaining the practices and in stopping, detaining and searching plaintiffs, their vehicles and their possessions pursuant to the practices have unreasonably burdened the fundamental right to travel guaranteed to plaintiffs and the class they seek to represent by Article IV, Section II of the United States Constitution.

**(Violation of Right to Freedom of Movement)**

70. The defendants' actions in maintaining the practices and in stopping, detaining and searching plaintiffs, their vehicles and their possessions pursuant to the practices have unreasonably burdened the fundamental right to freedom of movement guaranteed to plaintiffs and the class they seek to represent by the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

**COUNT II**

**(Violations of Federal Civil Rights Act and Regulations)**

71. The Ohio State Highway Patrol maintains or constitutes a program or activity that receives federal financial assistance from the United States Department of Justice. Thus, it is subject to the requirements of 42 U.S.C. § 2000d et seq. and 28 CFR § 42.101 et seq. Plaintiffs are intended beneficiaries of such program or activity.

72. The selection of persons to be stopped, detained and searched on the basis of race and/or national origin, with or without legally sufficient cause or justification constitutes intentional discrimination and has a discriminatory effect and a disproportionate impact on Hispanics and other persons of color.

73. The violation of 42 U.S.C. § 2000d and 28 CFR § 42.101 et seq. as alleged above, has caused, and will cause unless the practice is enjoined by this Court, tremendous harm and public humiliation to Hispanics and other individuals of color who are stopped, detained or searched pursuant to the above practices.

74. The defendants' actions in maintaining the practices and in stopping, detaining and searching plaintiffs pursuant to the practices have been motivated by

discriminatory animus, have a discriminatory effect, have a disproportionate impact on Hispanics and other persons of color and constitute a violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq. and its implementing regulations at 28 CFR § 42.101 et seq.

### **COUNT III**

#### **(Supplemental State Claims)**

75. All defendants in this Count are sued in their individual capacities only.

76. Defendants have acted recklessly, oppressively and willfully, with a design to oppress and injure plaintiffs.

#### **(State Constitution - Unlawful Seizure)**

77. The actions of defendants in maintaining the practices and in stopping and detaining plaintiffs pursuant to the practices have denied plaintiffs and the class they seek to represent their right to be free from unreasonable seizures in violation of Art. I, Sec. 14 of the Ohio Constitution.

#### **(State Constitution - Unlawful Search)**

78. The actions of defendants in maintaining the practices and in stopping, detaining and also often searching plaintiffs, their vehicles and their possessions pursuant to the practices have been motivated by discriminatory animus and constitute denial of equal protection of the laws based on plaintiffs' national origin or race in violation of the Ohio Constitution.

**PRAYER FOR RELIEF**

WHEREFORE, plaintiffs request:

A. A declaratory judgment that defendants' practices of stopping, detaining and also often searching persons, their vehicles and their possessions with or without legally sufficient cause or justification on the basis of national origin and/or race violates the rights of plaintiff class members, guaranteed by the First Amendment, to freedom of association;

B. A declaratory judgment that defendants' practices of stopping, detaining and also often searching persons, their vehicles and their possessions with or without legally sufficient cause or justification on the basis of national origin and/or race violates the rights of plaintiff class members, guaranteed by the Fourth Amendment, to be free from unreasonable searches and seizures;

C. A declaratory judgment that defendants' practices of stopping, detaining and also often searching persons, their vehicles and their possessions with or without legally sufficient cause or justification on the basis of national origin and/or race violates plaintiff class members' right to Equal Protection of the laws under the Fourteenth Amendment;

D. A declaratory judgment that defendants' practices of stopping, detaining and also often searching persons, their vehicles and their possessions with or without legally sufficient cause or justification on the basis of national origin and/or race violates plaintiff class members' constitutional right to freedom of movement as secured by the Due Process Clause of the Fourteenth Amendment;

E. A declaratory judgment that defendants' practices of stopping, detaining and also often searching persons, their vehicles and their possessions with or without legally sufficient cause or justification on the basis of national origin and/or race violates plaintiff class members' constitutional right to freedom of travel as secured by Article IV, Section II of the United States Constitution;

F. A declaratory judgment that defendants' practices of stopping, detaining and also often searching persons on the basis of national origin and/or race, with or without legally sufficient cause or justification, violates Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d and its implementing regulations at Title VI, 28 CFR § 42.101 et seq.;

G. A preliminary, and then a permanent injunction barring all defendants and their officers, agents, servants, employees and attorneys and those persons in active concert or participation with them from stopping or detaining individuals or searching them, their possessions or their automobiles on the basis of race and/or national origin, with or without legally sufficient cause or justification;

H. Reasonable and appropriate compensatory damages for the named plaintiffs and each plaintiff class member for the unlawful stops, detentions and searches of plaintiffs;

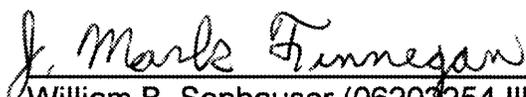
I. Punitive damages for the named plaintiffs and each class member in an amount to be ascertained at trial;

J. Plaintiffs' costs, expenses and reasonable attorneys' fees pursuant to 42 U.S.C. § 1988; and

K. Such other and further relief as this Court deems necessary and proper.

Respectfully submitted,

The Equal Justice Foundation  
520 Madison Avenue, Suite 1026  
Toledo, Ohio 43604-1306  
(419) 246-1000

  
\_\_\_\_\_  
William B. Senhauser (06202254 Illinois)  
J. Mark Finnegan (0032491)